

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL UNDER SECTION 109 No 1 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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TORRENT PHARMACEUTICALS LTD.

Versus

ANGLO FRENCH DRUG CO.(EASTERN)LTD.  
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Appearance:

MR RR SHAH for Petitioner  
MR YJ TRIVEDI for Respondent No. 1  
NOTICE SERVED for Respondent No. 2  
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CORAM : MR.JUSTICE R.BALIA.

Date of decision: 23/07/98

ORAL JUDGEMENT

1. Heard learned counsel for the parties. Learned counsel for the appellant has stated that the order has been made on 31st March, 1993, in the absence of applicant. The applicant was absent when the matter was called out for hearing because learned counsel for the opponent has made a written request for postponing of the

hearing after obtaining written consent of the learned counsel for the applicant. Under the assumption that since the counsel for the opponent sought for adjournment and applicant has already consented to, the matter may not be heard, the counsel for the applicant was not present when the matter was called out. Unfortunately, the Assistant Registrar has refused the application of the opponent, whose counsel was present and the matter was heard. These facts are not disputed.

2. Learned counsel for the appellant urges that in the circumstances, the applicant ought to be provided with fair and adequate opportunity of hearing to plead his case before the Assistant Registrar. Learned counsel for the appellant also do not seriously dispute that appellant might have been misled by his application for seeking time.

3. In the aforesaid circumstances, I consider it in the interest of justice to set aside the order under appeal and direct the Assistant Registrar to rehear the application after fixing the date of hearing afresh and giving notice thereof to both the parties and decide the same in accordance with law. Ordered accordingly. There shall be no order as to costs.

4. Since the matter is very old, the Assistant Registrar is directed to endeavour an early hearing of the application and decide the same as early as possible.

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